

ARKANSAS SUPREME COURT

No. CR 06-1304

TERRANCE JOHNSON
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 15, 2007

PRO SE MOTION FOR ACCESS TO
RECORD OR IN ALTERNATIVE FOR
APPOINTMENT OF COUNSEL
[APPEAL FROM THE CIRCUIT
COURT OF JEFFERSON COUNTY, CR
2003-1021, HON. ROBERT HOLDEN
WYATT, JR., JUDGE]

MOTION FOR ACCESS TO RECORD
GRANTED.

PER CURIAM

Appellant Terrance Johnson was convicted of first-degree murder, committing a terroristic act, and discharging a firearm from a vehicle, and sentenced as a habitual offender to an aggregate term of 528 months' imprisonment. The Arkansas Court of Appeals affirmed. *Johnson v. State*, CACR 04-1275 (Ark. App. Sept. 28, 2005). Appellant timely filed a pro se petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Counsel appointed to represent appellant in the Rule 37.1 petition filed a notice of appeal and was subsequently relieved as counsel. Appellant, now proceeding pro se, brings the motion pending before us and requests access to the record, or, in the alternative, appointment of counsel.

As appellant is proceeding pro se, the record is necessary in order to prepare the brief, and we grant his request for access to the record. As we grant that request, it is not necessary for us to consider appellant's alternate request for counsel. We do note, however, that appellant has not

provided any statement as to the merit of his appeal. An appellant must make a substantial showing that he is entitled to relief in a postconviction appeal and that he cannot proceed without counsel before we will appoint counsel. *See Howard v. Lockhart*, 300 Ark. 144, 777 S.W.2d 223 (1989)(per curiam).

Our clerk will provide appellant with a copy of the record so that he may prepare his brief. Although appellant does not specifically request an extension of time in which to file the brief, we will treat the motion as a motion for extension of time. Considering the pendency of the date on which the brief was due, such an extension of time is required in order to permit appellant to review the record. The appellant's brief is due here no later than forty days from the date of this opinion. The copy of the record must be returned to this court when the brief is submitted.

Motion for access to record granted.